

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

JAMES E. SCOTT,)
)
Plaintiff,)
v.)
)
INTERNAL REVENUE SERVICE,)
)
Defendant)

COMPLAINT FOR INJUNCTIVE RELIEF

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, to order the production of those agency records which defendant has improperly withheld from plaintiff.

2. This court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B).

3. Plaintiff, JAMES E. SCOTT is the requester of the records which defendant is now withholding. Plaintiff has requested this information and prompt release of the information is essential because of the immediate public interest in this information.

4. Defendant INTERNAL REVENUE SERVICE is an agency of the United States and has possession of the documents that plaintiff seeks.

5. By letter dated May 22, 2018 plaintiff requested access to certain identifiable records. A copy of this letter is attached as Exhibit 1.

6. By email and telephone exchange between May 30, 2018 and June 20, 2018 Plaintiff agreed to modify the initial request to limit the scope of the request. A copy of the June 20, 2018 email is attached as Exhibit 2.

7. By letter dated June 20, 2018, Defendant stated that it would not be able to meet that statutory deadline. Defendant also stated that a ten-day statutory extension applied in certain cases, but that it would not be able to meet that deadline either. Defendant stated that it unilaterally “extended the response date to September 20, 2018 when we believe we can provide

a final response.” This letter also stated that Plaintiff could file suit after July 5, 2018. A copy of the June 20, 2018 letter is attached as Exhibit 3.

7. By email exchange dated August 15, 2018 Plaintiff agreed to further limit the scope of the request. A copy of this email is attached as Exhibit 4.

8. By letter dated September 18, 2018 Defendant again failed to provide any records, and said it would “contact you by November 21, 2018 if I am still unable to complete your request.” A copy of this letter is attached as Exhibit 5.

9. By letter dated November 19, 2018 Defendant again failed to provide any records, and said it would “contact you by December 20, 2018 if I am still unable to complete your request.” A copy of this letter is attached as Exhibit 6.

10. By letter dated December 18, 2018 Defendant again failed to provide any records, and said it would “contact you by March 7, 2019 if I am still unable to complete your request.” A copy of this letter is attached as Exhibit 7.

11. Plaintiff has exercised great patience to date, but Defendant seems determined to withhold the records.

9. Plaintiff has a right of access to the requested information under 5 U.S.C. § 552(a)(3), and there is no legal basis for defendant's denial of such access.

WHEREFORE, plaintiff requests that this Court:

- (1) Order defendant to provide access to the requested documents;
- (2) Expedite this proceeding as provided for in 28 U.S.C. § 1657;
- (3) Award plaintiff costs and reasonable attorneys fees in this action, as provided in 5 U.S.C. § 552(a)(4)(E); and
- (4) Grant such other and further relief as it may deem just and proper.

Dated: December 26, 2018

Respectfully submitted,
JAMES E. SCOTT, *pro se*



James E. Scott
12155 Monroe Street
Wellington, FL 33414
jescott@me.com
917-225-5357

CERTIFICATE OF SERVICE


I hereby certify that, pursuant to FRCP Rule 4(i), a copy of the summons and of *Plaintiff's Complaint for Injunctive Relief* was sent by registered or certified mail to:

Internal Revenue Service
Commissioner of Internal Revenue
Attention: CC:PA:Br 6/7
1111 Constitution Avenue, NW
Washington, DC 20224

Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530-0001

U.S. Attorney's Office
99 N.E. 4th Street
Miami, Fl. 33132

Date: 12/26/2018



James E. Scott
12155 Monroe Street
Wellington, FL 33414

Exhibit 1

12155 Monroe Street
Wellington, FL 33414

May 22, 2018

Via Fax: 877-807-9215

Mail: IRS FOIA Request
HQ FOIA
Stop 211
PO Box 621506
Atlanta, GA 30362-3006

To Whom It May Concern:

I am making a FOIA request for certain records within the Office of Chief Counsel.

I request the following:

Any outgoing letter, email, or record of other communication, originated by any of Timothy L. Jones, Helen M. Hubbard, or Lewis Bell regarding any Private Letter Ruling request, between 8/1/2013 and 05/21/2014.

I am willing to consider intelligent ways to further limit this request to allow for easier processing. I am willing to pay associated costs up to \$50, if necessary. Should the costs be higher than that please let me know.

If there are any questions about this request you can email me at jescott@me.com or phone me at 917.225.5357.

Kind Regards,

A handwritten signature in black ink, appearing to read 'J. E. Scott', with a stylized flourish at the end.

James E. Scott

Exhibit 2

From: Quigley John M <John.Quigley@irs.gov>
Subject: RE: FOIA Request
Date: June 20, 2018 at 13:47:27 EDT
To: James Scott <jescott@me.com>

Thank you Mr. Scott. I sent a revised search memo to our Functional Coordinator including the PLRs you would like us to search. Today is the 20th business day since we've received your request. I will be sending an extension letter to you today.

John Quigley
Tax Law Specialist
Disclosure Office 10
Oakland Post of Duty
(510) 907-5337 Phone
(510) 907-5686 Fax

From: James Scott [mailto:jescott@me.com]
Sent: Tuesday, June 19, 2018 4:47 PM
To: Quigley John M <John.Quigley@irs.gov>
Subject: Re: FOIA Request

Ok, try these PLR numbers

201334038

201445002

201424002

201435013

201502008

201431003

201442049

201411032

On Jun 19, 2018, at 19:24, Quigley John M <John.Quigley@irs.gov> wrote:

I asked Counsel's Office if they could search by using specific code sections, but was told they won't do research and that you would need to provide the PLR numbers, UIL and subject.

From: James Scott [<mailto:jescott@me.com>]
Sent: Monday, June 18, 2018 4:38 PM
To: Quigley John M <John.Quigley@irs.gov>
Subject: Re: FOIA Request

Try these:

103

148-150

446

1001

Kind Regards,
James Scott

On Jun 18, 2018, at 19:27, Quigley John M <John.Quigley@irs.gov> wrote:

Mr. Scott—

I received a response from the FOIA Function Coordinator in Chief Counsel's Office. She said they will not perform research to identify the PLRs containing the communication you are seeking and that you will need to provide the UIL and/or PLR numbers. The PLRs may be searched on IRS.gov. If the PLRs were not published, then we would not be able to disclose any information from the file. I will have to close the request as imperfect.

John Quigley

**Tax Law Specialist
Disclosure Office 10
Oakland Post of Duty
(510) 907-5337 Phone
(510) 907-5686 Fax**

Exhibit 3



**DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224**

**PRIVACY, GOVERNMENTAL
LIAISON AND DISCLOSURE**

June 20, 2018

James Scott
12155 Monroe St.
Wellington, FL 33414

Dear Mr. Scott:

I am responding to your Freedom of Information Act (FOIA) request dated May 22, 2018 that we received on May 22, 2018.

I am unable to send the information you requested by June 20, 2018, which is the 20 business-day period allowed by law. I apologize for any inconvenience this delay may cause.

STATUTORY EXTENSION OF TIME FOR RESPONSE

The FOIA allows an additional ten-day statutory extension in certain circumstances. To complete your request, I need additional time to search for, collect and review responsive records from other locations. We have extended the statutory response date to July 5, 2018, after which you can file suit. An administrative appeal is limited to a denial of records, so it does not apply in this situation.

REQUEST FOR ADDITIONAL EXTENSION OF TIME

Unfortunately, we will still be unable to locate and consider release of the requested records by July 5, 2018. We have extended the response date to September 20, 2018 when we believe we can provide a final response.

You do not need to reply to this letter if you agree to this extension. You may wish to consider limiting the scope of your request so that we can process it more quickly. If you want to limit your request, please contact the individual named below. If we subsequently deny your request, you still have the right to file an administrative appeal.

You may contact me, the FOIA Public Liaison, Laura A. McIntyre, to discuss your request at:

IRS Disclosure Office 10
1999 Broadway, MS 7000 DEN
Denver, CO 80202
303-603-4734

The FOIA Public Liaison responds to FOIA and Privacy Act requests for copies of documents maintained by the IRS. There is no provision in either Act to resolve tax, collection, or processing issues and our staff is not trained to answer questions regarding those issues. If you need assistance with tax related issues, you may call the IRS toll free number at 1-800-829-1040.

If you are unable to resolve your FOIA dispute through the FOIA Public Liaison, the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's Office, offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road--OGIS
College Park, MD 20740-6001
202-741-5770
877-684-6448
ogis@nara.gov
ogis.archives.gov

You may file suit if you do not agree to an extension beyond the statutory period. Your suit may be filed in the U.S. District Court:

- Where you reside or have your principal place of business
- Where the records are located, or
- In the District of Columbia

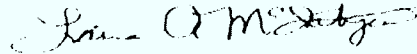
You may file suit after July 5, 2018. Your complaint will be treated according to the Federal Rules of Civil Procedure applicable to actions against an agency of the United States. These procedures require that the IRS be notified of the pending suit through service of process, which should be directed to:

Commissioner of Internal Revenue
Attention: CC:PA: Br 6/7
1111 Constitution Avenue, NW
Washington, D.C. 20224

The FOIA provides access to existing records. Extending the time period for responding to your request will not delay or postpone any administrative, examination, investigation or collection action.

If you have any questions please call Tax Law Specialist John M Quigley ID # 1000247712, at 510-907-5337 or write to: Internal Revenue Service, Disclosure Scanning Operation – PO Box 621506, Stop 211, Atlanta, GA 30362. Please refer to case number F18142-0070.

Sincerely,

A handwritten signature in black ink, appearing to read "Laura A McIntyre".

Laura A McIntyre
Disclosure Manager
Disclosure Office 10

Exhibit 4

From: James Scott <jescott@me.com>
Subject: Re: FOIA Request Update
Date: August 15, 2018 at 17:18:37 EDT
To: Quigley John M <John.Quigley@irs.gov>

John,
Then you for the update.

As we discussed on the telephone, I agree to dropping the 3 written determinations that are not PLRs, as shown below. I also agree to increase my commitment to \$100.

Kind Regards,
Jim Scott

On Aug 15, 2018, at 13:39, Quigley John M <John.Quigley@irs.gov> wrote:
Hello Mr. Scott—

I received an update from the paralegal assigned to your FOIA request in the Office of Chief Counsel. She is currently searching for records and advised me that the processing fees will mostly likely exceed the \$50 commitment in your request. Search fees are \$41.00 per hour (after the first 2 hours). In addition, the duplication fee is \$25.00 for more than 1,000 pages provided on a CD. The paralegal estimates around another 2-3 hours of search time. A fee limit of \$150 would cover a total of 5 hours search time (3 X \$41= \$123) plus the cost of providing records on a CD.

She also mentioned that 3 written determination numbers you provided are not Private Letter Rulings.

201334038 is TAM-127670-12
201442049 is POSTF 105922-12
201411032 is CCA-718131-3

She said she needs to issue a search memo for 201411032 file (which is Chief Counsel Advice) and would require about

2 hours search time. If you would like to eliminate this written determination, that would help reduce the search fees. Please let me know whether you would like us to search for this file and if you would like to increase you fee limit. Once I hear from you, I will pass this information along to the paralegal so she can resume processing your request. Thanks.

John Quigley
Tax Law Specialist
Disclosure Office 10
Oakland Post of Duty
(510) 907-5337 Phone
(510) 907-5686 Fax

Exhibit 5



**DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224**

**PRIVACY, GOVERNMENTAL
LIAISON AND DISCLOSURE**

September 18, 2018

James Scott
12155 Monroe St.
Wellington, FL 33414

Dear Mr. Scott:

I am responding to your Freedom of Information Act (FOIA) request dated May 22, 2018 that we received on May 22, 2018.

On June 20, 2018 I asked for more time to obtain the records you requested. I am still working on your request and need additional time to collect and review records. I will contact you by November 21, 2018 if I am still unable to complete your request.

Once again, I apologize for any inconvenience this delay may cause.

You may contact me, the FOIA Public Liaison, Laura A. McIntyre, to discuss your request at:

IRS Disclosure Office 10
1999 Broadway, MS 7000 DEN
Denver, CO 80202
303-603-4734

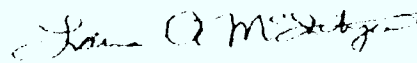
The FOIA Public Liaison responds to FOIA and Privacy Act requests for copies of documents maintained by the IRS. There is no provision in either Act to resolve tax, collection, or processing issues and our staff is not trained to answer questions regarding those issues. If you need assistance with tax related issues, you may call the IRS toll free number at 1-800-829-1040.

If you are unable to resolve your FOIA dispute through the FOIA Public Liaison, you also have the right to contact the Office of Government Information Services (OGIS). The Office of Government Information Services, the Federal FOIA Ombudsman's office, which offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road--OGIS
College Park, MD 20740-6001
202-741-5770
877-684-6448
ogis@nara.gov
ogis.archives.gov

If you have any questions please call Tax Law Specialist John M Quigley ID # 1000247712, at 510-637-3029 or write to: Internal Revenue Service, Centralized Processing Unit – PO Box 621506, Stop 211, Atlanta, GA 30362. Please refer to case number F18142-0070.

Sincerely,

A handwritten signature in black ink, appearing to read "Laura A McIntyre".

Laura A McIntyre
Disclosure Manager
Disclosure Office 10

Exhibit 6



**DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224**

**PRIVACY, GOVERNMENTAL
LIAISON AND DISCLOSURE**

November 19, 2018

James Scott
12155 Monroe St.
Wellington, FL 33414

Dear Mr. Scott:

I am responding to your Freedom of Information Act (FOIA) request dated May 22, 2018 that we received on May 22, 2018.

On September 18, 2018 I asked for more time to obtain the records you requested. I am still working on your request and need additional time to collect and review records. I will contact you by December 20, 2018 if I am still unable to complete your request.

Once again, I apologize for any inconvenience this delay may cause.

You may contact me, the FOIA Public Liaison, Laura A. McIntyre, to discuss your request at:

IRS Disclosure Office 10
1999 Broadway, MS 7000 DEN
Denver, CO 80202
303-603-4734

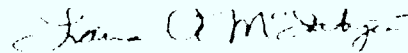
The FOIA Public Liaison responds to FOIA and Privacy Act requests for copies of documents maintained by the IRS. There is no provision in either Act to resolve tax, collection, or processing issues and our staff is not trained to answer questions regarding those issues. If you need assistance with tax related issues, you may call the IRS toll free number at 1-800-829-1040.

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Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road--OGIS
College Park, MD 20740-6001
202-741-5770
877-684-6448
ogis@nara.gov
ogis.archives.gov

If you have any questions please call Tax Law Specialist John M Quigley ID # 1000247712, at 510-907-5337 or write to: Internal Revenue Service, Centralized Processing Unit --PO Box 621506, Stop 211, Atlanta, GA 30362. Please refer to case number F18142-0070.

Sincerely,



Laura A McIntyre
Disclosure Manager
Disclosure Office 10

Exhibit 7



PRIVACY, GOVERNMENTAL
LIAISON AND DISCLOSURE

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

December 18, 2018

James Scott
12155 Monroe St.
Wellington, FL 33414

Dear James Scott:

I am responding to your Freedom of Information Act (FOIA) request dated May 22, 2018 that we received on May 22, 2018.

On November 19, 2018 I asked for more time to obtain the records you requested. I am still working on your request and need additional time to collect and review documents. I will contact you by March 7, 2019 if I am still unable to complete your request.

Once again, I apologize for any inconvenience this delay may cause.

You may contact our FOIA Public Liaison, Laura A. McIntyre, to discuss your request at: IRS Disclosure Office 10, 1999 Broadway, MS 7000 DEN, Denver, CO 80202, (303) 603-4734.

The FOIA Public Liaison responds to FOIA and Privacy Act requests for copies of documents maintained by the IRS. There is no provision in either Act to resolve tax, collection, or processing issues and our staff is not trained to answer questions regarding those issues. If you need assistance with tax related issues, you may call the IRS toll free number at 1-800-829-1040.

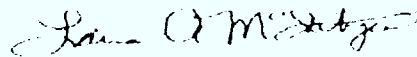
If you are unable to resolve your FOIA dispute through the FOIA Public Liaison, you also have the right to contact the Office of Government Information Services (OGIS). The Office of Government Information Services, the Federal FOIA Ombudsman's office, which offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road--OGIS
College Park, MD 20740-6001
202-741-5770
877-684-6448

ogis@nara.gov
ogis.archives.gov

If you have any questions please call Disclosure Tax Law Specialist John M Quigley ID # 1000247712, at 510-907-5337 or write to: Internal Revenue Service, Centralized Processing Unit – Stop 93A, PO Box 621506, Atlanta, GA 30362. Please refer to case number F18142-0070.

Sincerely,



Laura A McIntyre
Disclosure Manager
Disclosure Office 10